

**Mar 27, 2018**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

R. ALEXANDER ACOSTA, Secretary of  
Labor, United States Department of Labor,  
Plaintiff,  
v.

NO. 2:17-cv-00218-SAB

**CONSENT JUDGMENT**

KALEY PROPERTY SERVICES, INC., a  
Washington corporation, KPS REALTY,  
LLC d/b/a KPS MANAGEMENT, a  
Washington Limited Liability Corporation;  
COMSTOCK CONSTRUCTION &  
RENOVATIONS, LLC, a Washington  
limited liability company; KARLYN  
KALEY, an individual and managing agent  
of the Corporate Defendants; and  
RICHARD KALEY, an individual and a  
managing agent of the Corporate  
Defendants,  
Defendants.

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1 Plaintiff, R. ALEXANDER ACOSTA, Secretary of Labor, United States  
2 Department of Labor (the “Secretary”), and Defendant KALEY PROPERTY  
3 SERVICES, INC. (“KPS” or “Defendant”)<sup>1</sup>, have agreed to resolve the matters in  
4 controversy in this civil action and agree to the entry of this Consent Judgment and  
5 Order (“Judgment”).

6 A. The Secretary filed a Complaint in the above-captioned proceeding  
7 naming Defendant and alleging that Defendant violated provisions of sections 6, 7,  
8 11(c), 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended  
9 (“FLSA”), 29 U.S.C. §§ 206, 207, 211(c), 215(a)(2) and 215(a)(5). Defendant has  
10 appeared in this action.

11 B. Defendant admits that the Court has jurisdiction over the parties and  
12 subject matter of this civil action and that venue lies in the Eastern District of  
13 Washington.

14 C. Defendant denies the allegations in the Complaint, and specifically  
15 denies that it violated provisions of sections 6, 7, 11(c), 15(a)(2), and 15(a)(5) of  
16 the Fair Labor Standards Act of 1938, as amended (“FLSA”), 29 U.S.C. §§ 206,  
17 207, 211(c), 215(a)(2), and 215(a)(5).

18 D. The Secretary and Defendant waive Findings of Fact and Conclusions  
19 of Law, and agree to the entry of this Judgment in settlement of this action, without  
20 further contest.

21 It is therefore, upon joint motion of the attorneys for the parties, and for  
22 cause shown,  
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25 <sup>1</sup> Although the Secretary’s First Amended Complaint filed November 8, 2017  
26 (ECF No. 10), names multiple defendants as reflected in the caption of the case,  
27 this Consent Judgment is between only the Secretary and Kaley Property Services,  
28 Inc. (“KPS”). Upon KPS fulfilling the obligation set forth in Paragraph 6 herein,  
the Secretary will file a Joint Stipulation of Dismissal with Prejudice as to all  
defendants but KPS.



1 ORDERED, ADJUDGED, AND DECREED that Defendant, its officers,  
2 and its agents are permanently enjoined and restrained from violating the  
3 provisions of sections 6, 7, 11(c), 15(a)(2) and 15(a)(5) of the FLSA, 29 U.S.C. §§  
4 206, 207, 211(c), 215(a)(2) and 215(a)(5), in any of the following manners:

5 1. In accordance with FLSA §§ 6 and 15(a)(2), Defendant shall not  
6 employ any employee who is engaged in commerce, within the meaning of the  
7 FLSA, or is employed in an enterprise engaged in commerce or in the production  
8 of goods for commerce, within the meaning of FLSA § 3(s), at wage rates less than  
9 the applicable federal minimum wage.

10 2. In accordance with FLSA §§ 7 and 15(a)(2), Defendant shall not  
11 employ any employee who in any workweek is engaged in commerce, within the  
12 meaning of the FLSA, or is employed in an enterprise engaged in commerce or in  
13 the production of goods for commerce, within the meaning of FLSA § 3(s), for any  
14 workweek longer than 40 hours unless such employee receives compensation for  
15 his or her employment in excess of 40 hours in such workweek at a rate not less  
16 than one and one-half times the regular rate at which he or she is employed.

17 3. Defendant shall make, keep, and make available to authorized agents  
18 of the Secretary workplace records as prescribed by FLSA §§ 11(c) and 15(a)(5),  
19 29 U.S.C. §§ 211(c) and 215(a)(5), and the implementing regulations found in  
20 Title 29, Code of Federal Regulations, Part 516.

21 4. Defendant shall pay \$10,000, to be treated as back wages under the  
22 FLSA and this Judgment, to individuals on Exhibit 1, as a result of their  
23 employment by Defendant during the period of August 2, 2014, through July 31,  
24 2016 (“back wage accrual period”) as set forth in the attached Exhibit 1, showing  
25 the name of each employee and listing on the same line the gross back wage  
26 amount due the employee and the period covered by the Consent Judgment.

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1           5. Defendant shall make a further payment of \$10,000 pursuant to  
2 Section 16(c) of the FLSA, such amounts allocated to each employee shown on  
3 ECF No. 12-1, Exhibit 1, as liquidated damages.

4           6. Defendant shall effect payments as identified in paragraphs 4 and 5 above  
5 as follows:

6           a. On or before March 28, 2018, a schedule shall be provided to  
7 the Seattle Regional Office of the Wage Hour Division, 300 Fifth Avenue,  
8 Suite 1130, Seattle, WA 98104. Such schedule shall (1) bear the name of the  
9 corporate Defendant, employer identification number, address, and phone  
10 number of the corporate Defendant; and (2) show the name, last known  
11 (home) address, social security number, and employer-issued employee  
12 identification number for each employee listed in the attached ECF No. 12-  
13 1, Exhibit 1.

14           b. Defendant shall make the payments to each employee as set  
15 forth on the attached ECF No. 12-1, Exhibit 1. Each payment shall be made  
16 by a cashier's check or money order, shall be made out to "The U.S.  
17 Department of Labor or [employee's name]," shall be considered a normal  
18 payroll check, and shall reflect all standard deductions for the employee. All  
19 checks shall be delivered by no later than April 4, 2018, to the Department  
20 of Labor, Wage and Hour Division, Seattle District Office, 300 Fifth Avenue  
21 Suite 1130, Seattle, WA 98104. Within 10 days of receipt of the checks by  
22 the Department of Labor's Wage and Hour Division, the Secretary will file a  
23 Joint Stipulation of Dismissal with Prejudice as to all defendants but KPS.

24           c. The Secretary shall attempt to distribute the checks to the payee  
25 employees, or to their estates if that be necessary, in the Secretary's sole  
26 discretion. Any money not so paid within a period of three years from the  
27 date of its receipt by the Secretary, because of an inability to locate the  
28 proper persons or because of their refusal to accept it, shall be then deposited



1 in the Treasury of the United States, as miscellaneous receipts, pursuant to  
2 29 U.S.C. § 216(c).

3 d. In the event of any default in the timely making of any payment  
4 due hereunder, the full amount due under the back wage and liquidated  
5 damages provisions of this Judgment which then remains unpaid, plus post-  
6 judgment interest at the rate of 10% per year, from the date of this Judgment  
7 until paid in full, shall become due and payable upon the Secretary's sending  
8 by ordinary mail a written demand to the last business address of the  
9 Defendant then known to the Secretary.

10 7. Defendant, its officers, and its agents shall not in any way, directly or  
11 indirectly, demand, require or accept any of the back wages or liquidated damages  
12 from those employees listed on the attached ECF No. 12-1, Exhibit 1. Defendant  
13 shall not threaten or imply that adverse action will be taken against any employee  
14 because of their receipt of funds to be paid under this Judgment. Violation of this  
15 paragraph may subject Defendant to equitable and legal damages, including  
16 punitive damages and civil contempt.

17 8. In accordance with FLSA § 15(a)(3), Defendant, its officers, and its  
18 agents shall not in any way retaliate or take any adverse employment action, or  
19 threaten or imply that adverse action will be taken against any employee who  
20 exercises or asserts his or her rights under the FLSA or provides information to any  
21 public agency investigating compliance with the FLSA. Per FLSA § 16, violation  
22 of this paragraph may subject Defendant to equitable and legal damages.

23 a. Within thirty (30) days of the entry of this Judgment, Defendant  
24 shall inform all supervisors, managers, superintendents, and foremen  
25 regarding the requirements of this Judgment and shall provide a complete  
26 copy of this Judgment to all supervisors, managers, superintendents, and  
27 foremen.  
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1           9.     Pursuant to FLSA § 215(a)(5), Defendant shall not alter or manipulate  
2 time or payroll records to reduce the number of hours actually worked by an  
3 employee, and Defendant shall not direct managers, supervisors, superintendents,  
4 foremen, or payroll preparers to falsify time or payroll records in any manner  
5 including reducing the number of hours worked by employees.

6           10.    Within thirty (30) days of the entry of this Judgment, Defendant shall  
7 supply all of its employees with copies of the attached ECF No. 12-1, Exhibit 2,  
8 which summarizes the employees' rights under the FLSA, and shall conspicuously  
9 post a copy at all office locations in the employee break room where it is visible.

10          IT IS ORDERED that the filing, pursuit, and/or resolution of this proceeding  
11 with the entry of this Judgment shall not act as or be asserted as a bar to any action  
12 or claim under FLSA § 16(b), 29 U.S.C. § 216(b), as to any employee not named  
13 on the attached ECF No. 12-1, Exhibit 1, nor as to any employee named on the  
14 attached ECF No. 12-1, Exhibit 1, for any period not specified therein, nor as to  
15 any employer other than Defendant; and it is further

16          ORDERED that this Judgment represents a full resolution of all claims  
17 alleged against Defendant in the Secretary's Complaint for the employees named in  
18 ECF No. 12-1, Exhibit 1; and, it is further

19          ORDERED that each party shall bear its own fees and other expenses  
20 incurred by such party in connection with any stage of this proceeding, including  
21 but not limited to attorneys' fees, which may be available under the Equal Access  
22 to Justice Act, 28 U.S.C. § 2412, as amended; and it is further

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1 ORDERED that this Court shall retain jurisdiction of this action for purposes  
2 of enforcing compliance with the terms of this Judgment.

3 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
4 this Order and to provide copies to counsel.

5 **DATED** this 27th day of March 2018.



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11 Stanley A. Bastian  
12 United States District Judge  
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